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MARRIAGE AND DIVORCE: THE LETTER OF THE LAW.

BY NORMA W. JONES.

EVERY little while, almost periodically it seems, a wave of virtue sweeps over the land on the subject of divorce. Some, with whom fate has dealt kindly, or to whom Providence, or circumstance, has given companions who happen to be congenial to them, are aroused to terrible apprehension over the state of the country at large, because some couples, more or less prominent, have felt obliged to appeal to the courts to sever their marital bonds. These talk and write about amending the laws; no divorce shall be granted in any State for any cause save one, the so-called Scriptural one. Church councils are held; no divorced person must be countenanced; no minister of the Gospel must dare remarry any such, no matter what the circumstances may be. Some even go so far as to contend that no person who has ever been divorced shall be received into, or allowed to remain in, the Church, or to partake of the Holy Communion.

They search the Scriptures, and pick out what they consider the Divine Law on the subject, give their own interpretation to it, and then say that every one shall be held to the *letter of it*, or be excommunicated from the Church and from all decent society.

They quote words which may have been spoken by Christ, but which were addressed to those whose customs and circumstances were far different from those of the men and women of to-day. Eighteen centuries have made a vast difference in the status of women, both under the civil and moral law. Nearly all the Churches act upon many passages of the Bible more liberally —for instance, the one relating to women in the churches: “Let your women keep silence in the churches, for it is not permitted unto them to speak.” “If they want any information,

let them ask their husbands at home," etc. In how many of the best churches in the land have these teachings been abrogated entirely, women being foremost among their speakers and workers, many even filling pulpits of their own. So, we believe and claim, should the teachings as to marriage and divorce be somewhat modified, in judging cases at the present day.

The text on which most stress is laid is this: "What, therefore, God hath joined together, let not man put asunder."

Permit us to ask, what means have we of knowing whom God really joins together? We have never found any formula laid down in the Bible for a marriage service; so what constitutes true marriage in His sight? Surely we cannot think that *all* who stand up before His ministers and take upon themselves the vows of the marriage service, as arranged by the Church and by the customs of society, can be said to be joined by *God*!

Think of the unworthy motives that actuate many of those who assume the marriage relation; of the "*mariages de convenance*," or those for money, or title, or position.

Or, coming down to every-day life, what of the women and girls who marry almost the first man who asks them in the hope of bettering their condition, or to escape unpleasant surroundings at home; and what of the men who marry just to get a servant or a housekeeper? The love and respect, the *true union of hearts*, which alone should constitute true marriage, are wholly lacking in many such cases.

The same Bible, which is so much quoted, also says: "Man looketh upon the outward appearance, but God pondereth the heart." Taking this as a test, what man, be he minister or layman, is to be the judge as to *whom God hath joined together*, and make that other text, so often quoted, an iron-clad rule to fit every case? After all, it is but a man who reads over to the couples who stand before him the vows, formulated by man, to which they may assent with their lips while their hearts may have no part in them. This is generally done in God's name and under the most solemn circumstances, it is true; but, for all that, God, who looks at the heart, may not give His sanction or approval.

If, after a while, it is found that a terrible mistake has been made, that one is utterly unworthy and makes no effort to live up to the vows taken, why should the other be bound, either to a life of torture, or to a life of loneliness?

Why would it not be as well to go again before one of God's ministers, and acquaint him with the true state of things; and if he is fully assured that there is no possibility of their living together in peace and harmony, or if there is crime on the part of the one which would drag the other down in the social scale and bring a blight upon the innocent children that might be born to them, why could not the minister, with the sanction of the civil court, dissolve the bond, in as solemn a manner as that in which it was made, and allow the innocent party to go free? Would they not, under such circumstances, be as much put asunder by God as they were joined by Him?

We speak in all reverence. We know it would not be well to make the laws relating to marriage and divorce too lax; but we know as well that there is something wrong with our social system,—that there are thousands of unhappy, mismated couples in this land of ours and in other lands, from the highest circles down to the lowest.

Not much oftener do we read of a divorce, here and there, than we read of some man murdering his wife in cold blood, or of some woman murdering her husband, because the relations between them had grown unendurable. Not many months since two men were hanged on the same day, in neighboring States, for wife murder, and at the same time two women were under sentence of death for the murder of their husbands.

In one of the cases, the wife murdered, a lovely woman, the devoted mother of four children, when asked before the culmination of the tragedy why she did not leave her brute of a husband, replied that "there was such a prejudice against divorce," that "the woman was nearly always blamed." And so she remained, clinging to her vows long after her husband had ruthlessly broken his, until she met her horrible fate at his hands; and the children, deprived of both parents, were left to the mercy of the world, with a far worse stigma than divorce upon their name. How much better would it have been for the devoted mother to have taken the children and sought protection and freedom through the courts!

So long as human nature is what it is, honorable divorce is, we contend, almost a necessity, and those who are forced to take this step should not be judged too harshly.

If mutual love and respect do not hold two people together in

this closest of all relations, no law, human or Divine, will be able to do so. The outward semblance may be maintained, but it is a hollow mockery and a sham, which, we should think, would be a greater sin in the sight of God than a dissolution of the bond. If both would only live up to their marriage contract, were truthful, honest and upright in their dealings with each other and with the world,—above all, if they lived up to the teachings of the Golden Rule, we venture to say there would be few, if any, divorces.

We believe that married life is the true state for both men and women, that no one can reach his, or her, highest development who goes through this world alone, or unmated; neither can there be any true happiness in those relations between the sexes which have not the approval of society and will not allow the conscience to be at peace with God and man. So long, however, as human nature is so frail, temperaments so different, early training and circumstances so utterly diverse, it is well-nigh impossible for some couples to get along peaceably in this closest of all relationships. Their days and nights are filled with bickerings and discussions, till life is a burden to each. Why should they be held together by either civil or Divine law?

Again, in the laws of nearly all states and lands there are the most stringent provisions for protecting the people against false pretences. A contract entered into under false pretence, by either party to it, is promptly declared null and void upon proof of the same. Why, then, should not the question of false pretences in winning a husband or a wife be taken into account, and the same protection be accorded in dealing with this most vital of all matters pertaining to the human race? How many men, how many women, marry, carefully concealing some physical defect, some hidden disease perhaps, some mental or moral trait, which must inevitably cause bitter disappointment, if it does not completely wreck the happiness of those to whom they thus solemnly bind themselves for life. Before marriage, it is the rule for both men and women to exhibit to each other only the best side of their natures, their most lovable traits. They appear to be congenial; each character seems the counterpart, or complement, of the other; but the mantle of beauty, which, mayhap, was all pretence, or the glamour of fancy, falls away in the prosaic atmosphere of married life.

It is impossible to love that which is unlovely, to respect that which is unworthy, to honor that which is not honorable; and a marriage founded in this way on false pretences should be declared null and void as soon as possible.

No two people should be compelled to live together in this closest of all relationships, unless they can do so in peace and happiness, unless each can conduce to the other's welfare. We are forced to agree with the late Robert G. Ingersoll in one of his many sayings, if in no more, that "no children should be brought into the world that are not the children of love and welcomed by both parents." The failure to live up to this rule has given to the world, we truly believe, its vicious and criminal classes.

It is on account of the children that the strongest plea is made by those who cry "No divorce"; but what can we expect of children reared in homes where the parents are constantly quarrelling and bickering, or more disgraceful scenes are enacted? Better, a thousand times, that such couples should separate, that the children born to them be given to the one more worthy, or better capable of taking care of them, or that they should be placed by the court under capable guardianship.

There are other things which should entitle unhappy couples to fair and honorable separation, such as crime against the laws of the land, especially of the father, which entails on innocent children a tarnished name and reputation; also drunkenness, than which no fouler blot can rest upon a home. If there is a person, or persons, on this earth to be pitied it is a drunkard's wife and children, or, a rarer case, the sober husband of a wife addicted to drink or drugs. Such couples should not be held together in the marriage relation an hour longer than the unselfish love of the one or the other may dictate, or after the innocent one is convinced that further efforts at reformation are useless.

There are still other causes that conduce to unhappiness in the married life,—causes that cannot be paraded before the world and yet may render life together utterly miserable. No one can know so well as the parties themselves the true state of things, and they should be the best judges in such a vital affair.

Only those who are united in heart by the purest love and affection, who are thoroughly congenial, who would bear and condone almost anything, rather than be separated, can be truly said to be united by God. It *would* be a crime for *man* to separate such,

as is sometimes done; and this is, most probably, all that is meant by the sentence so often quoted: "What, therefore, God hath joined together, let not man put asunder."

In this connection we will quote what an eminent Judge said in an address on this subject some years ago:

"Since the Reformation, marriage has been regarded as a civil contract, and the 'holiness' of the nuptial bond is a matter simply of ecclesiastical law. 'Divorce,' as mentioned in the Bible, has nothing in common with our ideas of divorce, where a tribunal is established to hear and weigh evidence, and where separation cannot be decreed without proper causes and on a fair hearing. The divorce which Christ referred to was the arbitrary will of a man to put away his wife for reasons sufficient to himself and from which 'bill of divorcement' the woman had no appeal. While Christ did not approve of separation, He acknowledged that Moses had enacted certain laws 'because of the hardness of their hearts,' thus recognizing the fact that men, being mortal and sinful, must be subject to laws assuming that condition. It is plain that Christ's teachings on divorce were necessarily based on the then existing Mosaic law and the iniquitous 'bill of divorcement,' which was manifestly unjust and arbitrary. Civil law, to-day, regards such divorce as did Christ, and no man is allowed to divorce his wife at pleasure. I do not believe that we have a correct translation of the words: 'What, therefore, God hath joined together let not man put asunder'; for, such being true, every marriage is of God, and the necessity for divorce and increasing demand for it is inexplicable. Rather it should read: 'Whom, therefore, God hath joined together let not *the man* put asunder.' The law, as laid down by the Saviour, on marriage and divorce, was an ideal law, fit for the government of angels, or angelic men; but as men are not angels, as all marriages are not holy, nor of God, and certain marital wrongs, not specified by Christ or His apostles, are unbearable, therefore men and women are entitled to honorable, legal divorcement."

The proposition to free them and yet prevent them from forming other ties which might prove most happy and congenial, is most cruel and unjust, and it will inevitably lead many away from the Church and into relations far more questionable than honorable remarriage would be.

NORMA W. JONES.